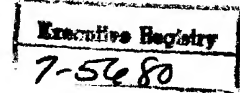


OGC Has Reviewed

W. Houston

NOTES FOR DISCUSSION WITH THE COMMITTEE ON THE
LOYALTY AND SECURITY PROGRAM



1. The Investigatory Function

A. Role of the Civil Service Commission

- (1) Non-subversive investigations;
- (2) lack of discretion or failure to exercise it.

B. Role of the Bureau

- (1) All subversive investigations;
- (2) initial investigations adequate;
- (3) special and additional investigations thorough and complete although time consuming.

C. Agency Investigations

- (1) Rarely used except in cases with overseas aspects;
- (2) difficulty of objectivity and completeness;
- (3) not to be substituted for FBI work except under most exceptional circumstances.

D. Evaluation of Source

- (1) Bureau principle of no evaluation generally sound due to enormity of problem;
- (2) confidential informants characterized as "unknown reliability," "usually reliable," and "known reliability."

2. The Preparation Function

A. Role of the Office of Security

- (1) Documentation of primary importance - it sets the tone for all processing of cases;
- (2) presentation of all facts pro and con in usable manner;

(3) evaluation only as to security aspects, i.e., whether or not security problem exists, if so whether board proceedings required;

(4) recommendation on suspension.

B. Role of General Counsel

(1) Review entire case, concur with or comment on evidence compiled by and conclusions of Office of Security;

(2) advise DCI on any legal considerations;

(3) draft all papers required in processing;

(4) advise subject of case upon request as to rights, procedures, and representation by counsel;

3. The Evaluation Process

A. Role of the Board (Board required only when clearance not granted on record. Essential it be composed of senior staff members.)

(1) Fact finding in first instance;

(2) authorization of further investigation if necessary;

(3) evaluation of all information with regard to loyalty, security and suitability in each case;

(4) interrogatories, informal interviews with subject, charges, formal hearings;

(5) recommendation to the Director for appropriate disposition in each case - for clearance at any point - for termination only after charges and opportunity to be heard.

B. Role of the Office of Security

(1) Presenter of facts to the board not prosecutor;

(2) duty to satisfy board's requirements not to make its own case.

C. Role of General Counsel

- (1) Advise the board on procedure;
- (2) applicability of rules of evidence, and comment on weighing evidence;
- (3) all substantive legal problems arising in any case.

D. Role of the Subject

- (1) Conflicting statements and unresolved points clarified by interrogatories;
- (2) informal appearance of subject for questioning in the event of doubt by board as to whether it has a case;
- (3) preference of charges and opportunity for subject to appear where adverse recommendation apparent or probable.

E. Problems Encountered in Evaluation

- (1) Evaluation of sources both known and confidential;
- (2) inability to subpoena witnesses;
- (3) inability to cross-examine majority of sources;
- (4) inability to identify unwilling sources to subject;
- (5) inability to confront subject with antagonistic witnesses;
- (6) inability to inform subject of information from confidential sources.

4. Disposition

- (1) Board recommends retention as clearly consistent with national security;
- (2) Board recommends separation based on loyalty, security, or suitability;
- (3) action by DCI under EO 10450 or under section 102(c) of the National Security Act of 1947;

- (4) problem of resignation versus termination;
- (5) technical action by Office of Personnel;
- (6) reports to Civil Service Commission and the Federal Bureau of Investigation.

5. Special Considerations

A. Role of Polygraph

- (1) In investigation as an adjunct to develop leads as a basis for further interrogation;
- (2) in evaluation as a final check for the board's consideration;
- (3) polygraph report not considered by board until after conclusions reached based on documentary evidence and testimony of witnesses.

B. Security Problems

- (1) Difficulties with cleared counsel;
- (2) restrictions on investigations.

C. EO 10450 Proceedings Versus CIA Internal Proceedings

- (1) Irresponsibility of outside boards;
- (2) court review.

D. Finality of Action

- (1) Each agency makes own decision;
- (2) no effective appeal system;
- (3) no central reviewing mechanism for substantive matters. Civil Service Commission reviews manner in which EO 10450 program is performed.

6. Representative Cases

- (1) The [REDACTED] case; 25X1A9a
- (2) the [REDACTED] case;
- (3) the [REDACTED] case;
- (4) the [REDACTED] case. 25X1A9a

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